



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2018-0153; FRL-9981-76-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendment to Control of Emissions of Volatile Organic Compounds from Consumer Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of Maryland. This revision pertains to Code of Maryland Regulations (COMAR) 26.11.32 - Control of Emissions of Volatile Organic Compounds (VOCs) from Consumer Products. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2018-0153 at <http://www.regulations.gov>, or via email to Susan Spielberger, Associate Director, Office of Air Planning and Programs, Spielberger.Susan@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you

wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Gregory Becoat (215) 814-2036, or by e-mail at becoat.gregory@epa.gov.

SUPPLEMENTARY INFORMATION: On November 16, 2017, the Maryland Department of Environment (MDE) submitted a revision to its SIP for COMAR 26.11.32 - Control of Emissions of Volatile Organic Compounds from Consumer Products. The amendment is part of Maryland’s strategy to achieve and maintain the 8-hour ozone national ambient air quality standards (NAAQS) throughout the State.

I. Background

EPA has designated certain areas within Maryland as nonattainment for the 2008 ozone NAAQS. *See* 40 CFR 81.321. Also, all of Maryland is included in the Ozone Transport Region (OTR) and is therefore treated as a moderate nonattainment area for ozone. *See* CAA section 184(a), (b)(2), 42 U.S.C. section 7511c(a), (b)(2). Therefore, Maryland must continue to enact regulations to gain further reductions of the emissions of VOCs, a class of compounds that are precursors to ground-level ozone. Ozone is formed in the atmosphere by photochemical reactions between VOCs and oxides of nitrogen (NO_x) in the presence of sunlight. In order to reduce ozone concentrations, the CAA requires control of VOC and NO_x emission sources to achieve VOC and/or NO_x emission reductions in nonattainment areas.

In December 1999, EPA identified emission reduction shortfalls in several severe 1-hour ozone nonattainment areas, including those located in the OTR. The Ozone Transport Commission (OTC) developed model rules for a number of source categories. One of the model rules was to reduce VOC emissions from consumer products. The OTC model rules are based on existing rules developed by the California Air Resources Board (CARB) in 2001 (See “OTC Model Rule for Consumer Products,” issued March 28, 2001, revised November 29, 2001, and April 23, 2002), which were then analyzed and modified by OTC-formed workgroups to address emission reduction needs in the OTR. The 2001 OTC model rule set VOC emission limits on nearly 80 percent of the consumer product categories. Maryland adopted the 2001 OTC model rule for consumer products under COMAR 26.11.32 – Control of Emissions of Volatile Organic Compounds from Consumer Products, on August 18, 2003. EPA approved Maryland’s adopted regulation COMAR 26.11.32 as part of the SIP on December 8, 2004 (69 FR 70895). The OTC model rule for consumer products was amended on September 19, 2006, based upon changes by CARB in 2005. Maryland adopted the amended 2006 OTC model rule for consumer products under COMAR 26.11.32 – Control of Emissions of Volatile Organic Compounds from Consumer Products, on June 8, 2007.

The amended model rule added fourteen consumer product categories with new product category definitions and VOC limits; revised one previously regulated category with a more restrictive VOC limit; and established additional requirements for two previously regulated categories. EPA approved Maryland’s amended regulation into the SIP on December 10, 2007 (72 FR 69621). Maryland again amended its consumer products regulation and on October 18, 2010 (75 FR 63717), EPA approved Maryland’s SIP revision to COMAR 26.11.32 – Control of Emissions of Volatile Organic Compounds from Consumer Products. This SIP revision added and amended definitions; added VOC content limits for an additional 11 categories of consumer products; and revised the VOC content

limits for one category of consumer products that was already regulated.

MDE's November 16, 2017 SIP revision asks EPA to approve into the SIP recent amendments to COMAR 26.11.32 – Control of Emissions of Volatile Organic Compounds from Consumer Products, in order to institute the requirements of the 2010 and 2014 OTC model rules for consumer products. The 2010 and 2014 model rules were developed as part of a regional effort to attain and maintain the 8-hour ozone NAAQS, and reduce 8-hour ozone levels. The 2010 OTC model rule reflected changes made by the 2006 CARB rule. The 2014 OTC model rule reflected changes made by the 2009 CARB rule. The OTC model rules further enhance VOC standards for specific consumer products and introduces VOC standards for new products. The amendments to COMAR 26.11.32 - Control of Emissions of Volatile Organic Compounds from Consumer Products, consists of updates to the VOC content limits and standards for a variety of consumer product categories, including personal care products, household products, automotive cleaners, and adhesives. The regulations set forth content and labeling requirements for flammable multi-purpose solvents and paint thinners. In addition, the regulations prohibit the sale, offer for sale, supply, or manufacture for use in the State of certain products manufactured on or after January 1 that contain methylene chloride, perchloroethylene, or trichloroethylene. These products include any bathroom and tile cleaner, construction panel and floor covering adhesive, electronic cleaner labeled “Energized Electronic Equipment use only,” general purpose cleaner, or oven or grill cleaner. The amendments also establish VOC standards for 11 new consumer product categories. In addition, the amendments further strengthen the VOC standards for 15 consumer product categories based on improved reformulations of these products that are capable of achieving lower VOC emissions while demonstrating an ability to maintain performance specifications for the products. The amendments also incorporate new definitions and numerous modifications to existing definitions to improve clarity. In particular, MDE amended the structure of

the definition, exemptions, and VOC standard for the artist's thinner/solvent consumer product category without changing the regulatory language, which remains consistent with the 2009 CARB rule and the 2014 OTC model rule.

It is important to note that the 2006 CARB rule eliminated the "hair styling gel" category and now considers gels to fall under "hair styling product – all other forms." Moving gels under the "hair styling product – all other forms" category reduced the VOC limit from 6 to 2 percent VOC by weight. The 2014 OTC model rule did not address this amendment as intended; however, MDE amended "hair styling gel" to be included under the "hair styling product – all other forms" category to meet the VOC limit of 2 percent VOC by weight in order to remain consistent with CARB.

II. Summary of SIP Revision and EPA Analysis

The SIP revision consists of Maryland's revision to regulations .01-.06, .08, .12, .14, .16, and the addition of a new regulation .05-1, under COMAR 26.11.32 - Control of Emissions of VOCs from Consumer Products. Generally, the regulations establish or amend VOC content limits and standards for a variety of consumer product categories, including personal care products, household products, automotive cleaners, and adhesives, in order to be consistent with the CARB and OTC model rules.

The regulations also, among other things:

1. set forth content and labeling requirements for flammable multi-purpose solvent and paint thinner;
2. prohibit the sale, offer for sale, supply, or manufacture for use in the State of specified products that contain methylene chloride, perchloroethylene, or trichloroethylene, which are compounds that are potential carcinogens; and
3. make various updates to the applicability provisions, documents incorporated by reference, definitions, reporting requirements, exemptions, and test methods.

Substantial amendments were made to COMAR 26.11.32.04 – Standards – General, to establish that a person may not sell, supply, offer for sale, or manufacture for sale in the State a consumer product that contains VOCs in excess of limits specified in COMAR 26.11.32.04B based on the CARB and OTC model rules. The following 11 consumer products categories were added, including the VOC standards limits in parentheses based on percent VOC by weight:

1) Dual Purpose Air freshener/Disinfectant, Aerosol (60); 2) Anti-Static Product, Aerosol (80); 3) Artist's Solvent/Thinner (3); 4) Automotive Windshield Cleaner (35); 5) Disinfectant, Aerosol (70); 6) Disinfectant, Non-Aerosol (1); 7) Multi-Purpose Solvent (3); 8) Paint Thinner (3); 9) Sanitizer, Aerosol (70); 10) Sanitizer, Non-Aerosol (1); and 11) Temporary Hair Color, Aerosol (55).

The following existing 15 consumer products categories were amended, including the VOC content limits in parentheses based on percent VOC by weight:

1) Adhesive – Construction, Panel and Floor (7); 2) Automotive Brake Cleaner (category changed to Brake Cleaner (10); 3) Bathroom and Tile Cleaner, All Other Forms (subcategory changed to Non-Aerosol (1); 4) Carburetor or Fuel-Injection Air Intake Cleaner (10); 5) Engine Degreaser, Aerosol (10); 6) Floor Polish/Wax, Resilient Flooring Material (1); 7) Floor Polish/Wax, Non-resilient Flooring Material (1); 8) Furniture Maintenance Product, All Other Forms (subcategory changed to Non-Aerosol) (3); 9) General Purpose Cleaner, Aerosol (8); 10) General Purpose Degreaser, Aerosol (10); and 11) Laundry Starch/Sizing/Fabric Finish Product (4.5); 12) Nail Polish Remover (1); 13) Oven or Grill Cleaner, Non-Aerosol (subcategory changed to Non-Aerosol) (4); 14) Oven or Grill Cleaner, Aerosol (8); and 15) Shaving Gel (4).

In addition to these revised and new standards, Maryland added a requirement for “flammable and extremely flammable multi-purpose solvent and paint thinner,” to meet the formulated California VOC limits. The revision will continue to help Maryland attain and maintain the eight-hour ozone

standard for the 2008 NAAQS. The revision is expected to result in estimated statewide VOC emissions reduction potential of approximately 6.3 tons per day through the implementation of standards for new and existing forms of consumer products. This estimate is based on the proposed emissions benefit methodology of CARB and OTC model rules.

Further details of Maryland's regulation revisions and the CARB and OTC model rules for consumer products can be found in the docket of this proposed rulemaking EPA-R03-OAR-2018-0153 on www.regulations.gov.

III. Proposed Action

EPA is proposing to approve MDE's amendments to COMAR 26.11.32 - Control of Emissions of VOCs from Consumer Products, that adopts the VOC limits established in the 2010 and 2014 OTC model rules for consumer products, based on the 2006 and 2009 CARB rules; respectively (with the exception of the previously discussed "hair styling gel" category). The OTR estimated regional VOC emission reductions of approximately 15 percent if all OTR states, including Maryland, adopts the 2010 and 2014 model rules. EPA's review of this material indicates that the revisions made to COMAR 26.11.32 - Control of Emissions of VOCs from Consumer Products, meet the SIP revision requirements of the CAA. EPA is proposing to approve the State of Maryland's SIP revision for the control of emissions of VOCs from consumer products, which was submitted on November 19, 2017. EPA is soliciting public comments on the proposed adoption of these changes into the Maryland SIP.

IV. Incorporation by Reference

In this proposed rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the specific provisions of the Maryland rule discussed in section II of this

preamble. EPA has made, and will continue to make, these materials generally available through <http://www.regulations.gov> and at the EPA Region III Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a).

Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, to approve amendments to the State of Maryland's COMAR 26.11.32 - Control of Emissions of Volatile Organic Compounds from Consumer Products, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Consumer products, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 et seq.

Dated: July 24, 2018.

Cecil Rodrigues,
Acting Regional Administrator,
Region III.

d: 8/7/2018 8:45 am; Publication Date: 8/8/2018]

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